

# **Drug Offenses: Maximum Fines and Terms of Imprisonment for Violation of the Federal Controlled Substances Act and Related Laws**

Updated January 20, 2015

**Congressional Research Service**

<https://crsreports.congress.gov>

RL30722

## Summary

This is a chart of the maximum fines and terms of imprisonment that may be imposed as a consequence of conviction for violation of the federal Controlled Substances Act (CSA) and other drug supply and drug demand related laws.

It lists the penalties for: heroin, cocaine, crack, PCP, LSD, marihuana (marijuana), amphetamine, methamphetamine, listed (precursor) chemicals, paraphernalia, date rape drugs, rave drugs, designer drugs, ecstasy, drug kingpins, as well as the other substances including narcotics and opiates assigned to Schedule I, Schedule II, Schedule III, Schedule IV, and Schedule V of the Controlled Substances Act and the Controlled Substances Import and Export Act (Title II and Title III of the Comprehensive Drug Abuse and Control Act).

It maps the penalty structure for violations of 21 U.S.C. 841 (drug trafficking), 21 U.S.C. 841(b)(5) (cultivation on federal property), 21 U.S.C. 841(b)(6) (environmental damage from illegal manufacturing), 21 U.S.C. 841(b)(7) (crime of violence), 21 U.S.C. 841(c) (offenses involving listed chemicals), 21 U.S.C. 841(d) (booby traps on federal lands), 21 U.S.C. 841(f) (distribution/possession of listed chemicals), 21 U.S.C. 841(g) (Internet sales of date rape drugs), 21 U.S.C. 841(h) (dispensing controlled substances that are prescription drugs by means of the Internet), 21 U.S.C. 842 (regulatory offenses), 21 U.S.C. 843 (communications-related offenses), 21 U.S.C. 844 (simple possession), 21 U.S.C. 846, 963 (attempt and conspiracy), 21 U.S.C. 849 (drug dealing at truck stops), 21 U.S.C. 848 (continuing criminal enterprises (CCE)), 21 U.S.C. 854, 855 (investment of illicit drug profits), 21 U.S.C. 856 (establishing manufacturing operations), 21 U.S.C. 858 (endangering human life), 21 U.S.C. 859 (distribution to infants, minors, children, juveniles, and those under 18 years of age), 21 U.S.C. 860 (distribution in school zones), 21 U.S.C. 861 (distribution to pregnant women), 21 U.S.C. 863 (trafficking in drug paraphernalia), 21 U.S.C. 864 (theft of anhydrous ammonia, or transportation of stolen anhydrous ammonia), 21 U.S.C. 865 (smuggling methamphetamine into the United States), 21 U.S.C. 960 (illicit drug import and export), 21 U.S.C. 960a (narco-terrorism), 21 U.S.C. 962 (recalcitrant drug smugglers), 21 U.S.C. 1906 (financial transactions with designated foreign narcotics traffickers), 18 U.S.C. 545 (smuggling goods into the United States), 18 U.S.C. 546 (smuggling goods into foreign countries), 18 U.S.C. 924(c) (firearms and armor piercing ammunition in connection to drug trafficking crime), 18 U.S.C. 924(e) (armed career criminals), 18 U.S.C. 1952 (Travel Act), 18 U.S.C. 1956 (money laundering), 18 U.S.C. 1957 (monetary transactions in property derived from unlawful activity), 18 U.S.C. 1959 (compensated crime of violence in aid of racketeering), 18 U.S.C. 1963 (racketeering (RICO)), 18 U.S.C. 2118 (robberies and burglaries involving controlled substances), 18 U.S.C. 3559(c) (three strikes), 19 U.S.C. 1590 (aviation smuggling), 26 U.S.C. 7201 (tax evasion), 26 U.S.C. 7203 (failure to file required returns), 26 U.S.C. 7206 (fraud and false statements), 31 U.S.C. 5322 (currency transaction reporting (smurfing)), 31 U.S.C. 5332 (bulk cash smuggling into or out of the United States), 46 U.S.C. 70506 (maritime drug law enforcement).

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## Trafficking

**Unlawful distribution, possession with intent to distribute, manufacture, importation and exportation, etc. (21 U.S.C. 841, 960, 962, and 46 U.S.C. 70506)<sup>1</sup>**

1<sup>st</sup> offense

| <i>Substance</i>               | <i>Amount</i>                   | <i>Fine</i>     | <i>Imprisonment</i> |
|--------------------------------|---------------------------------|-----------------|---------------------|
| Heroin                         |                                 |                 |                     |
|                                | 1 kilogram <sup>2</sup> or more | \$10/50 million | 10 years to life    |
|                                | 100 to 999 grams                | \$5/25 million  | 5 to 40 years       |
|                                | Less than 100 grams             | \$1/5 million   | Up to 20 years      |
| Coca leaf and derivatives      |                                 |                 |                     |
|                                | 5 kilograms or more             | \$10/50 million | 10 years to life    |
|                                | 500 to 4999 grams               | \$5/25 million  | 5 to 40 years       |
|                                | Less than 500 grams             | \$1/5 million   | Up to 20 years      |
| Ecgonine (a cocaine precursor) |                                 |                 |                     |
|                                | 5 kilograms or more             | \$10/50 million | 10 years to life    |
|                                | 500 to 4999 grams               | \$5/25 million  | 5 to 40 years       |
|                                | Less than 500 grams             | \$1/5 million   | Up to 20 years      |

<sup>1</sup> All trafficking offenses involving Schedule I and II substances (and gamma hydrobutyric acid and flunitrazepam) are subject to the same imprisonment penalty—20 years to life—if death or serious bodily injury results from the use of the substance involved. Unless otherwise indicated, weights apply to any mixture containing a detectable amount of the substance regardless of the weight of the substance in the mixture.

A reference to a fine of “\$5/25 million” means a fine of no more than \$5 million for an individual and no more than \$25 million for a defendant other than an individual. A reference to “10 years to life” means a term of imprisonment of not less than 10 years nor more than life.

The Synthetic Drug Abuse Prevention Act of 2012—Subtitle D of Title XI of the Food and Drug Administration Safety and Innovation Act (P.L. 112-144)—added “cannabimimetic agents” to Schedule I of the Controlled Substances Act and defined such term to mean one of five structural classes of synthetic cannabinoids (and their analogues). Synthetic cannabinoid products are sometimes referred to as “synthetic marijuana,” “Spice,” or “K2.” The act also added 11 synthetic stimulants and hallucinogens to Schedule I, including methylenedioxypyrovalerone (MDPV), a chemical ingredient found in designer drugs commonly referred to as “bath salts.” The criminal penalties applicable to unlawful trafficking of these synthetic drugs are the same as those described below the “Any other Schedule I substance” table rows. In addition, any offense listed in this report that refers to “all substances” now encompasses these synthetic drugs. Finally, because these particular synthetic drugs are now regulated as controlled substances, the simple possession statute and its associated penalties, 21 U.S.C. 844, applies to them.

The Designer Anabolic Steroid Control Act of 2014 (P.L. 113-260) expanded the definition of the term “anabolic steroid” under the CSA (21 U.S.C. 802(41)(A)) to include 25 specific over-the-counter body-building products that are often falsely marketed to consumers as all-natural dietary supplements when in fact they contain synthetic forms of testosterone. The act also amended the definition to include any drug or hormonal substance that has been created or manufactured with the intent of producing a drug or other substance that either promotes muscle growth or otherwise causes a pharmacological effect similar to testosterone, or the drug or substance has been marketed or promoted in any manner suggesting that consuming it will do either of those things. Anabolic steroids, listed as Schedule III controlled substances, may be prescribed by a physician for legitimate medical purposes such as to address low red blood cell count and deficiency in testosterone; however, they are also commonly illicitly used to enhance athletic performance or build muscles. The act thus is intended to regulate these particular “designer” chemicals by subjecting them to the same regulatory requirements and criminal penalties under the CSA that are applicable to any Schedule III substance.

<sup>2</sup> 1 kilogram is equal to 35.27 ounces; 1 gram is equal to 0.04 ounces.

|  |                       |                  |
|--|-----------------------|------------------|
| Coca leaves, cocaine, or ecgonine containing cocaine base ("Crack," etc.)  |                       |                  |
| 280 grams or more  | \$10/50 million       | 10 years to life |
| 28 to 279 grams  | \$5/25 million        | 5 to 40 years    |
| Less than 28 grams   | \$1/5 million         | Up to 20 years   |
| PCP (phencyclidine)  |                       |                  |
| 100 grams or more  | \$10/50 million       | 10 years to life |
| 10 to 99 grams   | \$5/25 million        | 5 to 40 years    |
| Less than 10 grams   | \$1/5 million         | Up to 20 years   |
| Mixture or substance containing detectable amount of PCP   |                       |                  |
| 1 kilogram or more   | \$10/50 million       | 10 years to life |
| 100 to 999 grams   | \$5/25 million        | 5 to 40 years    |
| Less than 100 grams  | \$1/5 million         | Up to 20 years   |
| LSD (lysergic acid diethylamide)   |                       |                  |
| 10 grams or more   | \$10/50 million       | 10 years to life |
| 1 to 9 grams   | \$5/25 million        | 5 to 40 years    |
| Less than 1 gram   | \$1/5 million         | Up to 20 years   |
| N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]propanamide (Fentanyl, i.e., "synthetic heroin") 400 grams or more (or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of it) | \$10/50 million       | 10 years to life |
| 40 to 399 grams (or 10-99 grams of a mixture containing a detectable amount of any analogue of it)   | \$5/25 million        | 5 to 40 years    |
| Less than 40 grams   | \$1/5 million         | Up to 20 years   |
| Marihuana  |                       |                  |
| 1000 kilograms or more or 1000 or more plants <sup>3</sup>   | \$10/50 million       | 10 years to life |
| 100 to 999 kilograms or 100 to 999 plants  | \$5/25 million        | 5 to 40 years    |
| 50 to 99 kilograms or 50 to 99 plants  | \$1/5 million         | Up to 20 years   |
| Under 50 kilograms <sup>4</sup> , 10 kilograms of hashish, 1 kilogram of hashish oil, or 1 to 49 plants  | \$250,000/\$1 million | Up to 5 years    |
| Methamphetamine  |                       |                  |
| 50 grams or more or 500 grams or more of a mixture   | \$10/50 million       | 10 years to life |

<sup>3</sup> Unlike the penalties for manufacturing, distribution, dispensing, or possession, those for importation or exportation do not distinguish between quantities of marihuana plants in excess of 100. Importation or exportation of any marihuana plants in excess of 100 is subject to higher penalties than those for less than 50 kilograms of marihuana, etc.

<sup>4</sup> Except in the case of 50 or more marihuana plants regardless of weight, and except that under Section 841(b)(4) distribution of a small amount of marihuana for no remuneration is treated as a simple possession offense and punished under Section 844, *infra*.

|   |                         |                             |
|---|-------------------------|-----------------------------|
| 5 to 49 grams or 50 to 499 grams of a mixture                             | \$5/25 million          | 5 to 40 years               |
| Less than 5 grams or less than 50 grams of a mixture                      | \$1/5 million           | Up to 20 years              |
| Gamma hydroxybutyric acid   |                         |                             |
| any weight  | \$1/5 million           | Up to 20 years              |
| Flunitrazepam <sup>5</sup>  |                         |                             |
| 1 gram  | \$1/5 million           | Up to 20 years              |
| Less than 1 gram  | \$250,000/\$1 million   | Up to 5 years               |
| Any other Schedule I or II substance                                      |                         |                             |
| any weight  | \$1/5 million           | Up to 20 years              |
| Any other Schedule III substance  |                         |                             |
| any weight  | \$500,000/\$2.5 million | Up to 15 years <sup>6</sup> |
| Any other Schedule IV substance   |                         |                             |
| any weight  | \$250,000/\$1 million   | Up to 5 years <sup>7</sup>  |
| Any Schedule V substance  |                         |                             |
| any weight  | \$100,000/\$250,000     | Up to 1 year                |
| 2 <sup>nd</sup> offense <sup>8</sup>                                      |                         |                             |
| Heroin  |                         |                             |
| 1 kilogram or more  | \$20/75 million         | 20 years to life            |
| 100 to 999 grams  | \$8/50 million          | 10 years to life            |
| Less than 100 grams   | \$2/10 million          | Up to 30 years              |
| Coca leaf and derivatives   |                         |                             |
| 5 kilograms or more   | \$20/75 million         | 20 years to life            |
| 500 to 4999 grams   | \$8/50 million          | 10 years to life            |
| Less than 500 grams   | \$2/10 million          | Up to 30 years              |
| Ecgonine (a cocaine precursor)  |                         |                             |
| 5 kilograms or more   | \$20/75 million         | 20 years to life            |
| 500 to 4999 grams   | \$8/50 million          | 10 years to life            |
| Less than 500 grams   | \$2/10 million          | Up to 30 years              |
| Coca leaves, cocaine, or ecgonine containing cocaine base ("Crack," etc.) |                         |                             |
| 280 grams or more   | \$20/75 million         | 20 years to life            |
| 28 to 279 grams   | \$8/50 million          | 10 years to life            |
| Less than 28 grams  | \$2/10 million          | Up to 30 years              |

<sup>5</sup> Importation or exportation of any quantity of flunitrazepam is subject to a fine of \$1/5 million and up to 20 years imprisonment.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> A second offense is one committed after a prior conviction for a felony drug offense has become final.

|   |                       |                  |
|---|-----------------------|------------------|
| PCP (phencyclidine)   |                       |                  |
| 100 grams or more   | \$20/75 million       | 20 years to life |
| 10 to 99 grams  | \$8/50 million        | 10 years to life |
| Less than 10 grams  | \$2/10 million        | Up to 30 years   |
| Mixture or substance containing detectable amount of PCP  |                       |                  |
| 1 kilogram or more  | \$20/75 million       | 20 years to life |
| 100 to 999 grams  | \$8/50 million        | 10 years to life |
| Less than 100 grams   | \$2/10 million        | Up to 30 years   |
| LSD(lysergic acid diethylamide)   |                       |                  |
| 10 grams or more  | \$20/75 million       | 20 years to life |
| 1 to 9 grams  | \$8/50 million        | 10 years to life |
| Less than 1 gram  | \$2/10 million        | Up to 30 years   |
| N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide (Fentanyl, i.e., "synthetic heroin") 400 grams or more (or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of it) |                       |                  |
|   | \$20/75 million       | 20 years to life |
| 40 to 399 grams (or 10-99 grams of a mixture containing a detectable amount of any analogue of it)  | \$8/50 million        | 10 years to life |
| Less than 40 grams  | \$2/10 million        | Up to 30 years   |
| Marihuana   |                       |                  |
| 1000 kilograms or more or 1000 or more plants)  | \$20/75 million       | 20 years to life |
| 100 to 999 kilograms or 100 to 999 plants)  | \$8/50 million        | 10 years to life |
| 50 to 99 kilograms or 50 to 99 plants <sup>9</sup>  | \$2/10 million        | Up to 30 years   |
| Less than 50 kilograms, <sup>10</sup> 10 kilograms of hashish, 1 kilogram of hashish oil, or 1 to 49 plants   | \$500,000/\$2 million | Up to 10 years   |
| Methamphetamine   |                       |                  |
| 50 grams or more  | \$20/75 million       | 20 years to life |
| 5 to 49 grams   | \$8/50 million        | 10 years to life |
| Less than 5 grams   | \$2/10 million        | Up to 30 years   |
| Gamma hydroxybutyric acid   |                       |                  |
| any weight  | \$2/10 million        | Up to 30 years   |
| Flunitrazepam <sup>11</sup>   |                       |                  |
| 1 gram  | \$2/10 million        | Up to 30 years   |
| Less than 1 gram  | \$500,000/\$2 million | Up to 10 years   |

<sup>9</sup> See *supra* note 3.

<sup>10</sup> Except in the case of 50 or more marihuana plants regardless of weight and except that distribution of a small amount of marihuana is punishable as simple possession under Section 844, *infra*.

<sup>11</sup> See *supra* note 5.

|   |   |   |
|---|---|---|
| Any other Schedule I or II substance  |   |   |
| any weight  | \$2/10 million  | Up to 30 years  |
| Any other Schedule III substance  |   |   |
| any weight  | \$1 million/\$5 million   | Up to 30 years  |
| Any other Schedule IV substance   |   |   |
| any weight  | \$500,000/\$2 million   | Up to 10 years  |
| Any Schedule V substance  |   |   |
| any weight  | \$200,000/\$500,000   | Up to 4 years   |
| 3 <sup>rd</sup> offense   |   |   |
| A Schedule I or II substance singled out for special penalty treatment (as indicated above) in amounts constituting a top level offense | Same as 2 <sup>nd</sup> offense   | Life  |
| <b>Cultivation on Federal property (21 U.S.C. 841(b)(5))</b>  |   |   |
| Any offense   |   |   |
| All substances/all weights  | Greater of \$500,000/<br>\$1 million or the maximum<br>fine for distribution of the<br>substance involved | Maximum term for<br>distribution of the<br>substance involved |
| <b>Environmental damage on Federal property resulting from controlled substance manufacturing or distribution (21 U.S.C. 841(b)(6))</b> |   |   |
| Any offense <sup>12</sup>   |   |   |
| All substances  | Up to \$250,000   | Up to 5 years   |
| <b>Offenses involving essential (listed) chemicals, generally (21 U.S.C. 841(c))</b>  |   |   |
| Any offense <sup>13</sup>   |   |   |
| List I chemicals [under 21 U.S.C. 802(34)]  | Up to \$250,000   | Up to 20 years  |
| List II chemicals [under 21 U.S.C. 802(35)]   | Up to \$250,000   | Up to 10 years  |
| <b>Wrongful distribution or possession of essential (listed) chemicals (21 U.S.C. 841(f))</b>   |   |   |
| Knowing unlawful distribution   |   |   |
| Listed chemicals [under 21 U.S.C. 802 (33)]   | Up to \$250,000   | Up to 5 years   |
| Knowing possession of unreported listed chemicals   |   |   |
| Listed chemicals [under 21 U.S.C. 802 (33)]   | Up to \$100,000   | Up to 1 year  |

<sup>12</sup> Creating a serious hazard to human or animal life, or harming the environment, or causing water pollution as a result of using poisons, chemicals or other hazardous substances on Federal property while in the course of unlawfully manufacturing or otherwise distributing a controlled substance.

<sup>13</sup> Possession with intent to use for unauthorized manufacture of a controlled substance; possession or distribution knowing that the chemical will be used for unauthorized manufacture of a controlled substance; or, with intent of causing evasion of the record-keeping or reporting requirements of 21 U.S.C. 830 (or regulations pursuant thereto), receipt or distribution of a reportable amount in units small enough so that the making of records or filing of reports is not required.

**Internet Sales of Date Rape Drugs (21 U.S.C. 841(g))**

|   |                 |                |
|---|-----------------|----------------|
| Knowingly using the Internet to distribute a date rape drug <sup>14</sup> | Up to \$250,000 | Up to 20 years |
|---|-----------------|----------------|

**Dispensing Controlled Substances by Means of the Internet (21 U.S.C. 841(h))**

|  |   |  |
|--|---|--|
| Knowingly or intentionally using the Internet to deliver, distribute, or dispense a controlled substance without a valid prescription <sup>15</sup><br>(or aiding or abetting such activity) | Sentences determined according to the penalties authorized under 21 U.S.C. 841(b) <sup>16</sup> |  |
|--|---|--|

**Regulatory offenses & use of communications to facilitate distribution (21 U.S.C. 842, 843)****1<sup>st</sup> offense**

|   |                 |                |
|---|-----------------|----------------|
| Generally <sup>17</sup>                           | Up to \$100,000 | Up to 1 year   |
| Deception offenses, etc. <sup>18</sup>            | Up to \$250,000 | Up to 4 years  |
| Methamphetamine equipment offenses                | Up to \$250,000 | Up to 10 years |
| Advertisement offenses <sup>19</sup>              | Up to \$250,000 | Up to 4 years  |
| False labeling of anabolic steroids <sup>20</sup> | Up to \$100,000 | Up to 1 year   |

<sup>14</sup> “Date rape drug” means gamma hydroxybutyric acid (GHB) or any controlled substance analogue of GHB, including gamma butyrolactone (GBL) or 1,4-butanediol; ketamine; flunitrazepam; or any substance which the Attorney General designates, through a rulemaking proceeding, to be used in committing rape or sexual assault. 21 U.S.C. 841(g)(2)(A).

<sup>15</sup> Examples of prohibited activities include knowingly or intentionally: (1) delivering, distributing, or dispensing a controlled substance by means of the Internet by an online pharmacy that is not validly registered with the Drug Enforcement Administration (DEA); (2) writing a prescription for a controlled substance for the purpose of delivery, distribution, or dispensation by means of the Internet; (3) serving as an agent, intermediary, or other entity that causes the Internet to be used to bring together a buyer and seller to engage in such distribution; (4) offering to fill a prescription for a controlled substance based solely on a consumer’s completion of an online medical questionnaire; and (5) making a material false, fictitious, or fraudulent statement or representation on the homepage of Internet sites operated by an online pharmacy regarding the pharmacy’s compliance with federal and state controlled substance laws. 21 U.S.C. 841(h)(2).

<sup>16</sup> See pages 1-5 of this report for these penalties, which vary by type of substance, weight or other factual circumstances, and repeat offender status. 21 U.S.C. 841(h)(4).

<sup>17</sup> Knowingly distributing a controlled substance to an unauthorized person by a registrant, removing required labels, unlawful use of information acquired during a controlled substance inspection, failing to keep required records, etc. For more information about these federal requirements pertaining to the lawful handling of controlled substances, see CRS Report RL34635, *The Controlled Substances Act: Regulatory Requirements*, by Brian T. Yeh, *The Controlled Substances Act: Regulatory Requirements*, by Brian T. Yeh.

<sup>18</sup> To knowingly: use fictitious, revoked, suspended or expired registration number; obtain a controlled substance by fraud, forgery, or other form of deceit; provide false information; use labels and other markings to render a drug a counterfeit substance; unlawfully possess certain controlled substance manufacturing equipment; being a registrant, unlawfully distribute a controlled substance in the course of legitimate business; create or receive a mixture containing listed chemicals to evade regulatory requirements.

<sup>19</sup> Knowingly placing in any newspaper, magazine, handbill, or other publications, any written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a schedule I controlled substance. 21 U.S.C. 843(c). However, this offense does not include any advertisement that merely advocates the use of a schedule I controlled substance and does not attempt to propose or facilitate an actual transaction in a schedule I controlled substance. *Id.* The Ryan Haight Online Pharmacy Consumer Protection Act of 2008, P.L. 110-425, creates an additional advertisement offense, new subsection 21 U.S.C. 843(c)(2): knowingly or intentionally using the Internet to advertise the sale of, or to offer to sell, distribute, or dispense a controlled substance in a manner that is not authorized by federal controlled substances law, including directing prospective buyers to online pharmacies that are not registered with the DEA. The penalties for the offense are the same as those for advertising in printed publications.

<sup>20</sup> Knowingly importing, exporting, manufacturing, dispensing, or possessing with intent to manufacture, distribute, or

|   |  |                |
|---|--|----------------|
| <b>2<sup>nd</sup> offense</b>   |  |                |
| Generally   | Up to \$250,000  | Up to 2 years  |
| Deception offenses, etc.  | Up to \$250,000  | Up to 8 years  |
| Methamphetamine equipment offenses  | Up to \$60,000   | Up to 20 years |
| Advertisement offenses  | Up to \$250,000  | Up to 8 years  |
| <b>Manufacturing or Distributing Controlled Substances Within 1000 Feet of a Truck Stop or Highway Rest Area (21 U.S.C. 849)</b>                        |  |                |
| <b>1<sup>st</sup> offense</b>   |  |                |
| All substances  | Up to twice the penalties otherwise authorized   |                |
| <b>2<sup>nd</sup> offense</b>   |  |                |
| All substances  | Up to three times the penalties otherwise authorized   |                |
| <b>Distribution to persons under age 21 by those age 18 or older (21 U.S.C. 859)</b>  |  |                |
| <b>1<sup>st</sup> offense</b>   |  |                |
| All substances  | Up to twice the penalties otherwise authorized <sup>21</sup>   |                |
| <b>2<sup>nd</sup> offense</b>   |  |                |
| All substances  | Up to three times the penalties otherwise authorized   |                |
| <b>Distribution or manufacturing in or near schools, colleges, or certain youth-centered recreational facilities (21 U.S.C. 860, 860a)<sup>22</sup></b> |  |                |
| <b>1<sup>st</sup> offense</b>   |  |                |
| All substances (except methamphetamine)   | Up to twice the penalties otherwise authorized for distribution or manufacture but at least 1 year in prison <sup>23</sup> |                |
| <b>2<sup>nd</sup> offense</b>   |  |                |

dispense, an anabolic steroid or product containing an anabolic steroid, unless such product either (1) bears a label that clearly identifies an anabolic steroid or product containing an anabolic steroid by the nomenclature used by the International Union of Pure and Applied Chemistry or (2) is approved by the U.S. Food and Drug Administration (FDA) and complies with applicable FDA labeling requirements. 21 U.S.C. 825(e), 842(a)(16); 842(c)(2)(A). A violation of this offense by an importer, exporter, manufacturer, or distributor is also subject to a civil penalty of up to \$500,000. 21 U.S.C. 842(c)(1)(C). A violation involving falsely labeled products containing anabolic steroids that are sold (or held for retail sale) directly to the consumer for personal use is subject to a civil penalty of up to \$1,000 per violation, where each package, container, or other separate unit containing an anabolic steroid is considered a separate violation. 21 U.S.C. 842(c)(1)(D).

<sup>21</sup> Except that violation carries a mandatory minimum of no less than one year unless the offense involves marihuana in an amount of 5 grams or less.

<sup>22</sup> The offense includes distribution or manufacturing in or on, or within 1,000 feet of the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility.

<sup>23</sup> Also, at least twice any term of supervised released otherwise authorized for a first offense. An exception to the mandatory one-year minimum is provided with respect to an offense involving 5 grams or less of marihuana. Where the statute provides for a different mandatory penalty, the higher prevails.

|   |   |               |
|---|---|---------------|
| All substances (except methamphetamine)   | Up to three times the penalties otherwise authorized for distribution or manufacture but at least 3 years in prison |               |
| Any offense involving methamphetamine   | Other sentence as imposed plus imprisonment for no more than 20 years   |               |
| <b>Trafficking in drug paraphernalia (21 U.S.C. 863)</b>  |   |               |
| Interstate or foreign sale and transportation of, or use of the mails to sell, drug paraphernalia | Up to \$250,000   | Up to 3 years |

## Possession

|   |                       |                    |
|---|-----------------------|--------------------|
| <b>Simple possession (21 U.S.C. 844)<sup>24</sup></b> |                       |                    |
| 1 <sup>st</sup> offense                               | Not less than \$1,000 | Up to 1 year       |
| 2 <sup>nd</sup> offense <sup>25</sup>                 | Not less than \$2,500 | 15 days to 2 years |
| 3 <sup>rd</sup> offense                               | Not less than \$5,000 | 90 days to 3 years |
| Any offense   |                       |                    |
| Flunitrazepam   | Up to \$250,000       | Up to 3 years      |

## Controlled Substance Violations and Other Crimes/Activity

### Attempt and conspiracy (21 U.S.C. 846, 963)

Any offense

All substances

Same as penalties for the underlying offense

### Use of a controlled substance to commit a crime of violence (21 U.S.C. 841(b)(7))

Any offense<sup>26</sup>

All substances

Up to \$250,000    Up to 20 years

### Boobytraps on Federal property (21 U.S.C. 841(d))<sup>27</sup>

1<sup>st</sup> offense

Up to \$250,000    Up to 10 years

2<sup>nd</sup> offense

Up to \$250,000    Up to 20 years

### Continuing Criminal Enterprise (CCE) (“kingpin”) (21 U.S.C. 848)<sup>28</sup>

1<sup>st</sup> offense

<sup>24</sup> If convicted of a simple possession offense, the defendant is required, if able, to pay the “reasonable costs” of the investigation and prosecution of the offense. Penalties for simple possession are also applicable to distribution of a “small amount” of marijuana for no remuneration.

<sup>25</sup> For purposes of the section under which the possession penalties are imposed, a prior conviction includes conviction of *any* offense under the Controlled Substances Act or the Controlled Substances Import and Export Act and any drug or narcotic offense chargeable under state law.

<sup>26</sup> Distributing a controlled substance to another with the intent to commit a crime of violence upon the victim.

<sup>27</sup> Assembly, maintenance, or placement—in connection with the manufacture, distribution, or dispensing of a controlled substance.

<sup>28</sup> Under the statute, a person is considered to be engaged in a continuing criminal enterprise if (1) he commits any

|  |   |                  |
|--|---|------------------|
| All substances   | Up to \$2 million   | 20 years to life |
| 2 <sup>nd</sup> offense  |   |                  |
| All substances   | Up to \$4 million   | 30 years to life |
| Any offense, if the offender is a major participant, involving an enterprise that grosses \$10 million a year or more or involving 300 times <sup>29</sup> the amount of controlled substances required to trigger the most severe distribution penalties of 21 U.S.C. 841 |   |                  |
| All substances   | Up to \$4 million   | life             |
| <b>Establishing manufacturing operations (21 U.S.C. 856)</b>   |   |                  |
| Opening, maintaining, financing or making available a place for unlawful manufacture, distribution or use of controlled substances   |   |                  |
| All substances   | Up to \$500,000   | Up to 20 years   |
| <b>Endangering human life while illegally manufacturing a controlled substance (21 U.S.C. 858)</b>   |   |                  |
| Any offense  |   |                  |
| All substances   | Up to \$250,000   | Up to 10 years   |
| <b>Employment of persons under 18 years of age (for violation of the CSA) or unauthorized distribution to a pregnant individual (21 U.S.C. 861)</b>  |   |                  |
| 1 <sup>st</sup> offense  |   |                  |
| Generally  | Up to twice the penalties otherwise authorized for the underlying offense but at least 1 year in prison <sup>30</sup>       |                  |
| 2 <sup>nd</sup> offense  |   |                  |
| Generally  | Up to three times the penalties otherwise authorized for the underlying offense but at least 1 year in prison <sup>31</sup> |                  |
| Any offense  |   |                  |
| Use of person under 14 or distribution to a person under 18  | Up to \$50,000  | Up to 5 years    |

felony violation of the Controlled Substances Act or the Controlled Substances Import and Export Act, (2) the violation is a part of a continuing series of violations of those statutes (A) which are undertaken by the person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and (B) from which such person obtains substantial income or resources.

Note that some violations carry the death penalty as discussed *supra*.

<sup>29</sup> Except in the case of methamphetamine, where these provisions apply to any enterprise that grosses \$5 million or more a year, or involves 200 times of the amount of controlled substances required under 21 U.S.C. 841.

<sup>30</sup> Also, at least twice any term of supervised release otherwise authorized for a first offense. Any higher mandatory penalty otherwise authorized for the offense would prevail.

<sup>31</sup> Also, at least three times any term of supervised release otherwise authorized for a first offense. Penalties for third and subsequent offenses are governed by 21 U.S.C. 841(b)(1)(A).

|  |                    |  |
|--|--------------------|--|
| <b>Narco-Terrorism (21 U.S.C. 960a)</b>  |                    |  |
| Engaging in prohibited drug activity knowing or intending to provide anything of pecuniary value to terrorists   | Up to \$250,000    | At least twice the minimum punishment authorized under 21 U.S.C. 841(b)(1) |
| <b>Theft of anhydrous ammonia, or transportation of stolen anhydrous ammonia with intent or knowledge that such will be used to manufacture a controlled substance (21 U.S.C. 864)</b> |                    |  |
| 1 <sup>st</sup> offense  | Up to \$250,000    | Up to 4 years  |
| 2 <sup>nd</sup> offense  | Up to \$250,000    | Up to 8 years  |
| <b>Violation of regulations proscribing financial transactions with significant foreign narcotics traffickers (21 U.S.C. 1906)</b>   |                    |  |
| Any offense (individual)   | Up to \$250,000    | Up to 10 years   |
| Any offense (organization)   | Up to \$10,000,000 |  |
| Any offense (organization officer or agent)  | Up to \$5,000,000  | Up to 30 years   |
| <b>Travel Act: use of interstate facilities in aid of a racketeering enterprise involving controlled substances (18 U.S.C. 1952)</b>   |                    |  |
| Any substance and the intent to commit the following act:  |                    |  |
| A crime of violence in furtherance of the racketeering enterprise  | Up to \$250,000    | Up to 20 years, or any term of years or life if death results              |
| Distributing the proceeds from the racketeering enterprise   | Up to \$250,000    | Up to 5 years  |
| Promotion or facilitation of the racketeering enterprise   | Up to \$250,000    | Up to 5 years  |
| <b>Use or possession of firearms or armor piercing ammunition in connection to a drug trafficking crime (18 U.S.C. 924(c))<sup>32</sup></b>  |                    |  |
| 1 <sup>st</sup> offense involving a firearm  |                    |  |
| Generally  |                    | Not less than 5 years  |
| If a firearm is brandished   |                    | Not less than 7 years  |
| If a firearm is discharged   |                    | Not less than 10 years   |
| If firearm is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon  |                    | Not less than 10 years   |
| If firearm is a machinegun or destructive device, or equipped with a silencer/muffler  |                    | Not less than 30 years   |
| 2 <sup>nd</sup> or subsequent offense involving a firearm  |                    |  |
| Generally  |                    | Not less than 25 years   |

<sup>32</sup> The penalties listed for this offense apply *in addition* to the punishment provided for the drug trafficking crime.

|   |                 |                           |
|---|-----------------|---------------------------|
| If firearm is a machinegun or destructive device, or equipped with a silencer/muffler   |                 | life                      |
| <b>Any offense involving armor piercing ammunition</b>  |                 |                           |
| Use or possession   |                 | Not less than 15 years    |
| If such ammunition is used for murder   |                 | Any term of years or life |
| If such ammunition is used for manslaughter   | Up to \$250,000 | Up to 10 years            |
| If such ammunition is used for manslaughter   | Up to \$250,000 | Up to 6 years             |
| <b>Robberies Involving Controlled Substances (18 U.S.C. 2118(a))</b>  |                 |                           |
| <b>Any offense</b>  |                 |                           |
| Any quantity of a controlled substance in the care, custody, control, or possession of a DEA registrant, if (1) the replacement cost of such material is not less than \$500, (2) the robber (or person who attempted to rob the substance) traveled in interstate or foreign commerce or used any facility in interstate/foreign commerce to facilitate such unlawful taking, or (3) another person was killed or suffered significant bodily injury due to the robbery or attempted robbery | Up to \$250,000 | Up to 20 years            |
| If the person committing this offense assaults any person (or jeopardizes the life of any person) by using a dangerous weapon   | Up to \$250,000 | Up to 25 years            |
| If the person committing this offense kills any person  | Up to \$250,000 | Any term of years or life |
| <b>Burglaries Involving Controlled Substances (18 U.S.C. 2118(b))</b>   |                 |                           |
| <b>Any offense</b>  |                 |                           |
| Any quantity of a controlled substance in the business premises or property of a DEA registrant, if (1) the replacement cost of such material is not less than \$500, (2) the burglar (or person who attempted to burglarize the premises) traveled in interstate or foreign commerce or used any facility in interstate/foreign commerce to facilitate such unlawful entry, or (3) another person was killed or suffered significant bodily injury due to the burglary or attempted burglary | Up to \$250,000 | Up to 20 years            |
| If the person committing this offense assaults any person (or jeopardizes the life of any person) by using a dangerous weapon   | Up to \$250,000 | Up to 25 years            |
| If the person committing this offense kills any person  | Up to \$250,000 | Any term of years or life |
| <b>Conspiracy to Commit Robbery or Burglary Involving Controlled Substances (18 U.S.C. 2118(d))</b>   |                 |                           |
| <b>Any offense</b>  |                 |                           |
| If two or more persons conspire to violate 18 U.S.C. 2118(a) or 2118(b), and one or more of such persons performs any overt act to effect the object of the conspiracy  | Up to \$250,000 | Up to 10 years            |
| <b>Armed career criminal: possession of a firearm by a convicted felon or other disqualified person with 3 or more prior serious controlled substance convictions (drug crimes punishable by imprisonment for 10 years or more) or prior violent crime convictions (18 U.S.C. 924(e))</b>   |                 |                           |
| <b>Any offense</b>  |                 |                           |

|  |                 |                        |
|--|-----------------|------------------------|
| All substances   | Up to \$250,000 | Not less than 15 years |
| <b>Three strikes: commission of a serious violent felony by an individual with a prior serious controlled substance conviction (drug kingpin or most seriously punished trafficking offense) and a prior serious violent felony conviction or 2 or more prior serious violent felony convictions (18 U.S.C. 3559(c))</b> |                 |                        |
| Any offense  |                 |                        |
| All substances   | Up to \$250,000 | life                   |

## Racketeering

**Commission of a pattern of racketeering activity including one or more narcotic or dangerous drug felony to invest in, acquire, operate or participate in the affairs of an interstate enterprise ((RICO)(18 U.S.C. 1963))**

Any offense

|                              |                 |   |
|------------------------------|-----------------|---|
| Narcotic and dangerous drugs | Up to \$250,000 | Up to 20 years or life if the maximum for the predicate is life |
|------------------------------|-----------------|---|

**Compensated crime of violence in aid of RICO (18 U.S.C. 1959)**

Any offense involving any substance and the following criminal act:

|   |                 |                      |
|---|-----------------|----------------------|
| Murder  | Up to \$250,000 | life                 |
| Kidnapping  | Up to \$250,000 | Up to life in prison |
| Maiming   | Up to \$250,000 | Up to 30 years       |
| Serious injury  | Up to \$250,000 | Up to 20 years       |
| Threats   | Up to \$250,000 | Up to 5 years        |
| Attempt or conspiracy to murder or kidnap                 | Up to \$250,000 | Up to 10 years       |
| Attempt or conspiracy to maim or commit a serious assault | Up to \$250,000 | Up to 3 years        |

## Smuggling

**Smuggling Goods into the United States (18 U.S.C. 545)**

Any offense

|                |                 |                |
|----------------|-----------------|----------------|
| All substances | Up to \$250,000 | Up to 20 years |
|----------------|-----------------|----------------|

**Smuggling Goods into Foreign Countries (18 U.S.C. 546)**

Any offense

|                |                 |               |
|----------------|-----------------|---------------|
| All substances | Up to \$250,000 | Up to 2 years |
|----------------|-----------------|---------------|

**Smuggling methamphetamine or methamphetamine precursor chemicals into the United States while using facilitated entry programs (21 U.S.C. 865)**

Any offense

Imprisonment Sentence for Methamphetamine Offense Enhanced By Up to 15 years

**Smuggling a controlled substance by using an aircraft to transport it (19 U.S.C. 1590)<sup>33</sup>**

Any offense

All substances

Up to \$250,000

Up to 20 years

**Laundering Money from Controlled Substance Violations****Laundering (18 U.S.C. 1956)**

Any offense

All substances

Up to greater of \$500,000 or 2X the amount of \$ laundered

Up to 20 years

**Monetary traffic in property derived from unlawful activity (18 U.S.C. 1957)**

Any offense

All substances

Up to greater of \$250,000 or 2X the amount of \$ laundered

Up to 10 years

**Currency transaction and transportation reporting (31 U.S.C. 5322)**1<sup>st</sup> offense

All substances

Up to \$250,000

Up to 5 years

2<sup>nd</sup> offense

All substances

Up to \$500,000

Up to 10 years

**Bulk cash smuggling into or out of the United States (31 U.S.C. 5332)**

Knowingly concealing more than \$10,000 across a U.S. border

Up to 5 years

**Investment of illicit drug profits (21 U.S.C. 854, 855)**

Any offense

All substances

Up to the greater of 2X profit/proceeds or \$50,000

Up to 10 years

**Tax Offenses****Attempted evasion [concerning income from controlled substance violations] (26 U.S.C. 7201)**

Any offense

All substances

Up to \$250,000

Up to 5 years

<sup>33</sup> The Ultralight Aircraft Smuggling Prevention Act of 2012, P.L. 112-93, expanded the liability for this offense to include anyone who attempts or conspires to commit aviation smuggling, thus subjecting them to the same penalties as those who commit the crime. In addition, this law added a definition of “aircraft” to include ultralight vehicles which meet the characteristics described in 14 C.F.R. 103.1. Such ultralight vehicles (operated by a single occupant and weighing less than 254 pounds) have reportedly been used by drug traffickers to cross the Mexico-U.S. border in their effort to smuggle the drugs into the United States. See Aaron Cooper, *Gabrielle Giffords’ Anti-Drug Legislation Signed into Law*, Feb. 10, 2012, CNN, at [http://articles.cnn.com/2012-02-10/politics/politics\\_giffords-ultralight-law\\_1\\_ultralights-traffickers-gabrielle-giffords?\\_s=PM:POLITICS](http://articles.cnn.com/2012-02-10/politics/politics_giffords-ultralight-law_1_ultralights-traffickers-gabrielle-giffords?_s=PM:POLITICS).

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**Willful failure to file return [concerning income for such violations]  
(26 U.S.C. 7203)**

Any offense

All substances

Up to \$250,000    Up to 5 years

**Fraud and false statements [concerning income from such violations]  
(26 U.S.C. 7206)**

Any offense

All substances

Up to \$250,000    Up to 3 years

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